

§ 20.1003

notice of appeal and the hearing was recorded or transcribed at government expense, the transcript will be provided upon payment of the fees prescribed in 49 CFR 7.95. If the services of a government contractor were utilized, the transcript must be obtained under the provisions of 49 CFR 7.99.

§ 20.1003 Procedures for appeal.

(a) A party seeking appeal shall file an appeal brief with the Commandant and shall serve a copy of the appeal brief on each other party.

(1) The appeal brief must set forth the party's specific objections to the initial decision or rulings. The appeal brief must set forth, in detail—

- (i) The basis for the appeal;
- (ii) The reasons supporting the appeal; and
- (iii) The relief requested in the appeal.

(2) When the party relies on material contained in the record for the appeal, the appeal brief must specifically refer to the pertinent portions of the record.

(3) The appeal brief must be submitted to the Commandant within 60 days after service of the Administrative Law Judge's decision. After this time has elapsed, additional filings will not be considered as a part of the record of the appeal, unless an extension of time has been granted in writing by the Commandant or the Commandant's designee and the extended time limit has been met.

(b) Any party may file a reply brief with the Commandant no later than 35 days after being served with the appeal brief. The party filing a reply brief will serve a copy on all parties. If the party filing a reply brief relies on evidence contained in the record for the appeal, the party shall specifically refer to the pertinent evidence contained in the transcript of the hearing in the reply brief.

(c) A party may not file more than one appeal brief or reply brief, unless the party has petitioned the Commandant in writing, and the Commandant or the Commandant's designee has granted leave to file an additional brief. The Commandant will allow a reasonable time for the party to file the additional brief.

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(d) The Commandant has sole discretion to permit oral argument on the appeal. On the Commandant's own initiative or upon written petition by any part, the Commandant may find that oral argument will contribute substantially to the development of the issues on appeal and may grant the parties an opportunity for oral argument.

(e) The Commandant may allow any person to file an amicus curiae brief in an appeal of an Administrative Law Judge's decision.

[CGD 91-228, 59 FR 15022, Mar. 30, 1994; 59 FR 45757, Sept. 2, 1994]

§ 20.1004 Civil penalty appeal decisions.

(a) The Commandant shall review the record on appeal to determine if the Administrative Law Judge committed prejudicial error in the proceedings or if the Administrative Law Judge's decision should be affirmed, modified, or reversed. The Commandant may affirm, modify, or reverse the Administrative Law Judge's decision or may remand the case for further proceedings.

(b) The Commandant shall issue a decision on an appeal in writing and shall serve a copy of the decision on each party and interested person.

Subpart K—Finality, Petitions for Hearing, and Availability of Orders

§ 20.1101 Finality.

(a) Unless appealed pursuant to subpart J of this part, a decision by the Administrative Law Judge becomes an order assessing or denying a class II civil penalty 30 days after the date of the issuance of Administrative Law Judges's decision.

(b) If the Commandant issues a decision under subpart J of this part, the decision of the Commandant constitutes an order assessing or denying a class II civil penalty on the date issued.

(c) The order assessing or denying a class II civil penalty is the order of the Commandant.